



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-1162, NRC-2009-0434]

Western Nuclear, Inc.; Split Rock Conventional Uranium Mill Site

AGENCY: Nuclear Regulatory Commission.

ACTION: Approval of indirect transfer of control.

SUMMARY: The U.S. Nuclear Regulatory Commission has approved the indirect transfer of control of Western Nuclear, Inc. (WNI) and Materials License No. SUA-56 from Phelps Dodge Corporation (PDC) to Freeport-McMoRan Copper & Gold, Inc. (Freeport). License No. SUA-56 is for WNI's former Split Rock Conventional Uranium Mill Site near Jeffrey City, Wyoming. The WNI's parent company, PDC (currently named Freeport-McMoRan Corporation), was previously acquired in a reverse triangular merger by Freeport. On March 12, 2007, WNI informed the NRC that PDC would be acquired by Freeport. On March 19, 2007, Freeport acquired the entire interest in PDC, and Freeport now owns 100 percent of PDC. On July 22, 2009, WNI requested NRC approval of an indirect transfer of control with respect to its Materials License No. SUA-56. The NRC has determined that, although the licensee was required to obtain NRC consent prior to the indirect transfer of control, the indirect transfer of control of the license is otherwise consistent with applicable provisions of law and NRC regulations. Therefore, the NRC has approved the indirect transfer of control.

DATES: [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID **NRC-2009-0434** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2009-0434**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

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FOR FURTHER INFORMATION CONTACT: Dominick Orlando, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-6749, e-mail: Dominick.orlando@nrc.gov.

SUPPLEMENTARY INFORMATION:

The WNI is the holder of NRC Materials License No. SUA-56 for its former Split Rock Conventional Uranium Mill Site near Jeffrey City, Wyoming. The WNI has been an NRC licensee since 1958. The Split Rock Site ceased active uranium recovery operations in 1987 and has been engaging in final site reclamation activities since then. In 1971, WNI became a wholly owned subsidiary of PDC.

On March 12, 2007, WNI informed the NRC that the PDC would be acquired by Freeport (ADAMS Accession No. ML071080087). On September 5, 2007, WNI informed the NRC that the acquisition of WNI by Freeport had occurred (ADAMS Accession No. ML072710031). By letter dated July 22, 2009, WNI submitted a request to the NRC for Consent to Indirect License Transfer of NRC Materials License No. SUA-56 (ADAMS Accession No. ML092100247). On October 13, 2009, the NRC issued a notice of application for indirect change of control and provided interested individuals an opportunity to request a hearing (74 FR 52510).

On December 30, 2009, the NRC requested additional information from WNI on the indirect change of control (ADAMS Accession Nos. ML093480467 and ML093480453). The WNI responded on May 7, 2010 (the NRC staff was unable to locate this response in ADAMS and a copy was provided by WNI on January 13, 2015 (ADAMS Accession No. ML15036A423)). On July 27, 2010, the NRC requested additional information from WNI on the indirect change of control (ADAMS Accession No. ML102040700). On June 24, 2011, WNI provided information in response to the request for additional information (ADAMS Accession No. ML111860086). On December 2, 2014, the NRC requested additional information from WNI on the indirect change of control (ADAMS Accession No. ML14301A290). The WNI responded to the NRC's request on January 13, 2015 (ADAMS Package Accession No. ML15036A423).

The WNI's Materials License No. SUA-56 was issued under part 40 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Source Material." The Commission is required by 10 CFR 40.46 to determine if the change of control is in accordance

with the provisions of the Atomic Energy Act of 1954, as amended and to give its consent in writing.

The NRC staff reviews requests for license transfers using the guidance in NUREG 1556, Volume 15, "Consolidated Guidance About Materials Licenses-Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated November 2000 (NUREG 1556, Vol. 15) (ADAMS Accession No. ML003778305). The purpose of the review is to determine whether the licensee, under the transaction, would continue to meet the regulatory requirements necessary to establish adequate financial assurance for decommissioning as required by 10 CFR part 40. As discussed in NUREG-1556, Volume 15, the NRC uses the term "change of control" rather than the statutory term "transfer" to describe the variety of events that could require prior notification and written consent of the NRC. The central issue is whether the authority over the license has changed. The WNI's request for consent to indirect change of control describes an indirect change of control resulting from a merger between PDC, WNI's former parent company, and Freeport. Following the merger, WNI became a wholly owned subsidiary of Freeport and, as such, the transfer requires NRC consent.

The NRC staff reviewed WNI's request for consent to an indirect change in control of its 10 CFR part 40 license using the guidance in NUREG 1556, Vol. 15. The NRC staff finds that the information submitted by WNI sufficiently describes and documents the commitments made by Freeport is consistent with the guidance in NUREG-1556, Vol. 15. An environmental assessment for this action is not required because this action is categorically excluded under 10 CFR 51.22(c)(21).

Based on the review summarized above, the NRC has approved the indirect change of control, although the licensee was required to obtain NRC consent prior to the indirect change of control occurring. The licensee has further committed in its next parent company guarantee submission to provide a parent company guarantee issued by Freeport to cover the remaining

site reclamation costs. The WNI's request meets the requirements of 10 CFR 40.46(b)(1) and (2) as the request includes the identity and technical and financial qualifications of the proposed transferee, and WNI has committed to provide revised financial assurance for decommissioning, during the next parent company guarantee submittal, naming Freeport as parent company guarantor for the reclamation costs at the Split Rock Site.

Dated at Rockville, Maryland, this 5th day of May 2015.

For the Nuclear Regulatory Commission.

Larry W. Camper, Director,
Division of Decommissioning, Uranium Recovery
and Waste Programs,
Office of Nuclear Material Safety
and Safeguards.

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